
IN-SITE

A publication of the California New Motor Vehicle Board

September 2000

Edition 00:5

UPDATE: **LICENSEES AND NMVB JURISDICTION**

With so many specialty vehicle manufacturers and distributors now selling or leasing vehicles in California (*please see companion article, "Low-Speed, Electric Vehicles," page 2*), the Board staff is in the process of reviewing all entities licensed by the DMV as "auto commercial" and "motorcycle." Within the next several months, a questionnaire will be sent to any such licensee that is unknown to the Board, to determine whether they are within the purview of the Board. The information obtained from this questionnaire will be used to update the list of licensees within the Board's jurisdiction.

For purposes of fee collection, the list would be used for dissemination of the Data Summary and annual Board fee invoice. Additionally, all licensees not previously identified as within the Board's jurisdiction will be sent a letter explaining their rights and obligations, a *Guide to the New Motor Vehicle Board*, and a *2000 Supplement*.

This task is being undertaken to ensure that all licensees subject to the Board's jurisdiction are in compliance with the applicable statutes and pay their portion of the Board's annual fee. Once this project is accomplished, we will publish an updated list of all licensees subject to the Board's jurisdiction.

Questions or comments?

E-mail the Board at...

nmvb@pacbell.net



EDWARD BAYUK APPOINTED TO BOARD

Edward W. Bayuk, Public Member, was appointed to the Board by the California Senate President pro Tempore John L. Burton, in August 2000. Mr. Bayuk, a Los Angeles resident, is Executive Vice President of Tibarom, Inc., which through subsidiaries owns and operates eleven Jiffy Lube franchises in northern Nevada and Riverside County, California. Previously, the company was a Quaker State dealer operating nineteen Q Lube franchises in Colorado and Texas. Mr. Bayuk earned a Bachelor of Science in Industrial Distribution from Clarkson University and worked in the electrical manufacturing industry. Mr. Bayuk's term will end January 15, 2002.

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REVENUE*Fiscal Year 1999-2000**

NEW MOTOR VEHICLE DEALER Annual Fee:	\$377,557.00
NEW MOTOR VEHICLE BOARD Filing fees:	16,000.00
NEW MOTOR VEHICLE BOARD Manufacturer/Distributor Annual fee:	-0-
NEW MOTOR VEHICLE BOARD Hearing Transcripts:	29,031.90
Arbitration Cert. Program Reimbursement	2,920.45
Total	\$ 425,509.35

*July 1, 1999 thru June 30, 2000

LOW-SPEED, ELECTRIC VEHICLES

At its July 18, 2000, meeting, the Board determined that it has jurisdiction over low-speed and electric vehicle manufacturers, distributors, and dealers. This determination was based upon a thorough legal analysis, consultation with the DMV, and input provided by low-speed/electric vehicle manufacturers. All low-speed and electric vehicle manufacturers and distributors licensed in California

*Continued on page 3***IN SITE**

California NMVB Newsletter

State of California
Gray Davis, Governor

*Business, Transportation
and Housing Agency*
Maria Contreras-Sweet, Secretary

Department of Motor Vehicles
Steven Gourley, Director

New Motor Vehicle Board
Robert T. (Tom) Flesh, President
Frederick E. (Fritz) Hitchcock,
Vice-President

Members

Edward Bayuk
Wendy Brogin
Joseph D. Putnam
Solon C. Soteris
Glenn E. Stevens
David W. Wilson

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NEW BOARD LOGO

Pictured above is the new Board logo which was recently adopted by the Board's Administration Committee. Originally, the Board sought an easily identifiable symbol which could be used primarily for navigation on the new web site. After seeing the distinctive image created exclusively for the Board by the competent, creative staff at DMV Information Systems Division, you will now be seeing the logo featured on Board letterhead, memoranda, and, of course, on the Board's web site - www.nmvp.ca.gov.

DOCKET

PROTESTS

<u>Vehicle Code Section</u>	<u>Active</u>
3060	
Termination	7
Modification	27
3062	
Establishment	5
Relocation	1
Satellite Warranty Facility	0
3064	
Delivery&Preparation	0
3065	
Warranty Reimbursement	0
3065.1	
Incentive Compensation	0
TOTAL PROTESTS:	37

PETITIONS

3050(c)	7
TOTAL PETITIONS:	7

APPEALS

3050(b)	0
TOTAL APPEALS:	0

MATTERS RECENTLY RESOLVED

Since the September 12, 2000, Board meeting, a total of three protests and one petition have been resolved and are not included in the above figures.



PENDING LEGISLATION

During the 1999-2000 legislative session, several bills were passed which directly impact the Board.

Assembly Bill 2292

This bill, sponsored by Assemblymember Dutra, would reduce the quorum requirement for petitions involving a dispute between a franchisee and a franchisor from the current five public members down to three. Until Mr. Bayuk's recent appointment, the Board was again without a quorum of public members. In 1995 and 1996, the lack of a quorum of public members for 15 months caused a number of petitions to be stayed for months. These problems should be rectified with the passage of this bill. **This bill was signed by Governor Davis on September 24, 2000, and takes effect on January 1, 2001.**

Senate Bill 1819

This bill, by Senator Dunn, impacts several subdivisions of Vehicle Code section 11713.3 which pertain to unlawful acts on the part of vehicle manufacturers and distributors.

Amendments to subdivision (o) would revise the circumstances in which manufacturers or distributors could operate or control a dealership within ten (10) miles of an independent, franchised dealer. Those situations, in pertinent part, would be limited to the following:

- Owning or operating a dealership for a temporary period, not to exceed one year, in preparation for sale to a successor independent franchisee. Upon a showing of good cause, the Board may extend the time period. An additional exception was added which would apply only to Saturn Corporation (Part A).

- Owning a dealership in a bona fide dealer

Continued on page 4

LOW-SPEED...

Continued from page 2

have been sent correspondence concerning the Board's assertion of jurisdiction, provided with the *Guide to the New Motor Vehicle Board*, and invited to tour the Board's offices. Tom Novi has also been in contact with the Electric Vehicle Association of the Americas.

PENDING LEGISLATION

Continued from page 3

development program that satisfies three requirements (Part B).

This bill also establishes a notice requirement wherein the manufacturer or distributor must report to the Board within 10 days each time it commences or terminates operation of a dealership and each time it acquires or divests itself of an ownership interest under Part A. Additionally, under Part B, a manufacturer or distributor is required to provide annual notice to the Board of the name and location of each dealer in which it has an ownership interest. These notice requirements only apply to factory-owned-or-controlled-dealerships within the relevant market area of an existing franchise.

Amendments to subdivision (u) would define unfair discrimination to include but not be limited to the following:

- The furnishing to any manufacturer or distributor owned-or-controlled franchisee or dealer any of the following: (1) any vehicle that is not made available to each franchisee pursuant to a reasonable allocation formula that is uniformly applied, and any part or accessory that is not made available to all franchisees on an equal basis where there is no reasonable allocation formula that is uniformly applied; (2) Any vehicle, part, or accessory that is not made available to each franchisee on comparable delivery terms, including time of delivery after placement of order; and, (3) Any information obtained from a franchisee by the manufacturer or distributor concerning the business affairs or operations of any franchisee in which the manufacturer or distributor does not have an ownership interest.

- Referring a prospective purchaser or lessee to a factory-owned dealership unless the prospective customer resides in the area of responsibility assigned to that dealer or the prospective customer requests to be referred to that dealer.

A newly inserted subdivision (v) would define “area of

responsibility” as a geographic area specified in the franchise agreement that is used by the franchisor for purposes of evaluating the franchisee’s performance of sales and service obligations. As of September 24, 2000, this bill is awaiting a decision by Governor Davis.

The Board’s legal staff is monitoring all pending legislation which impacts the Board as well as legislation of general interest. Updates concerning such legislation are a regular feature in the *In-Site*.

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COURT CASES

The Board does not participate in any action unless a state interest is implicated. The Board is participating in the following court cases marked by an asterisk(*):

Kennedy Cadillac, Inc. vs. New Motor Vehicle Board; General Motors Corporation, Cadillac Motor Division, Real Party in Interest

* Rolls-Royce Motor Cars Inc. vs. New Motor Vehicle Board; Robert Pond, Real Party in Interest

* Rolls-Royce Motor Cars Inc. vs. New Motor Vehicle Board and Sam W. Jennings; Robert Pond, Real Party in Interest

Saba A. Saba, SBD Partners, Inc., and Honda Kawasaki Sportcenter vs. New Motor Vehicle Board; Kawasaki Motor Corp., U.S.A., Real Party in Interest

* Sterling Truck Corporation vs. New Motor Vehicle Board; Sacramento Valley Ford Truck Sales, Inc., Real Party in Interest



Consumer Mediation Program Statistics

Fiscal Year 2000-2001*

Mediation Calls Received	2,253
Complaint Forms Mailed to Consumers	657
Cases Filed	158

* July 1, 2000 to date



VISIT US... *ON THE WEB*

The New Motor Vehicle Board ("Board") is now online with a comprehensive, user-friendly web site which will benefit both consumers and licensees. The site provides information about the Board - its organization and jurisdiction, the Board members and its services. The site also includes details on filing a dealer-manufacturer dispute or a consumer mediation complaint. Sample forms can be downloaded by users. The site can be accessed at www.nmvb.ca.gov.

Please direct any questions or comments to Board staff.

BOARD NUMBERS INCREASE

Careful readers will have noticed a dramatic increase in the number of matters filed with the Board since our last publication (*see "Docket," page 3*). This rapid rise is the result of alleged modifications to the BMW and General Motors Corporation ("GM") franchise agreements. A total of 11 matters (five petitions and six protests) have been filed with the Board by six BMW dealers. In the GM matters, a total of 20 protests have been filed by 11 dealerships. The status of these matters will be updated in future editions of the *In-Site*.

UPCOMING HEARINGS**



October 6, 2000 10:00 a.m.
Robert Pond vs. Rolls-Royce
P-426-99
Order to Show Cause re: Suspension
(telephonic)

November 6, 2000 10:00 a.m.
Robert Pond vs. Rolls-Royce
P-426-99
Hearing on the merits

November 13, 2000
Montalbano, Inc. v. General Motors Corp.
PR-1727-00
Hearing on the merits

November 13, 2000
Montalbano, Inc. v. General Motors Corp.
PR-1727-00
Hearing on the merits

**Dates subject to change

UPCOMING BOARD MEETING

**General Board Meeting
November 28, 2000
Sacramento***



(*Agenda with time and location details
is mailed 10 days prior to the meeting)



CALIFORNIA STATE FAIR 2000 *Millennium Magic*

Each year the Department of Motor Vehicles provides information to fair goers at the California State Fair. This year the fair was held from

August 18 through September 4, 2000. With “Millennium Magic” as the theme for DMV’s booth, this marks the 32nd consecutive year of participation by DMV.

Some of the displays at the DMV booth included Veteran’s license plates, special interest/environmental license plates, and how to transfer vehicle ownership. In addition, hands on access to DMV’s Internet site was provided, as well as driver handbooks in English and Spanish, and a variety of other often-used DMV forms. A video highlighted DMV’s history - showing how services have improved over the years, and included information on where DMV fees come from and how they are spent.

With the help of key DMV staff, the New Motor Vehicle Board participated for the second year, featuring copies of a new, tri-fold, color brochure which outlines the Board’s Consumer Mediation Services Program in detail. State Fair promoters reported that some 980,000 attendees passed through the entrance gates of this year’s fair.